IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2377 OF 2004

Brihanmumbai Municipal Corporation
through the General Manager,
BEST Undertaking..... ...Petitioner

Versus

Mr.Hridayanarayan L.Dube & Anr.....Respondents

Mr.P.M. Palshikar with Ms. Rita Vorai/b.Crawford Bayley &
Co., for the Petitioners.
None for the Respondent.

CORAM: F.I. REBELLO, J.
DATE : 6th September,2004

P.C.:

1. Rule. Heard forthwith. Petitioner to file affidavit of service.

2. On behalf of the petitioners learned Counsel points out that the order of the Industrial Court dated 27th February, 2004 remanding the matter to the Labour Court in terms of the directions set out in the order amounts to failure to exercise jurisdiction.

3. It is pointed out that in the order of the Industrial Court in para.6 it is clear that the issues were framed and that in the judgment of the Labour____Court the issues have been answered though without setting out the issues in the body of the judgment.

4. Considering the fact that the matter was in issue before the Industrial Court even if the issues were not set out this would not disclose any error on the part of the Labour Court and could have been corrected by the Industrial Court itself. In my opinion the contention urged on behalf of

the petitioner is right. There_____was no point in remanding the matter in terms of the directions set out therein. As the Industrial Court acting as an Appellate Court could have itself corrected the said order considering that the issues are already framed. In the light of that the following order:-

The impugned order dated 27th February, 2004 is set aside. The matter is remanded back to the Industrial Court for disposal of the appeal on merits. The Industrial Court before proceeding with the matter_____to issue notice to the respondents herein who are appellants before the Industrial Court. Rule made absolute accordingly. No order as to costs.

(F.I.REBELLO, J.)